

In the Supreme Court of the State of Alaska

Terrace L Solomon,
Appellant,

v.

Wendy Solomon,
Appellee.

Supreme Court No. S-17476

Order Returning Appellant's Brief

Date of Order: **5/7/2020**

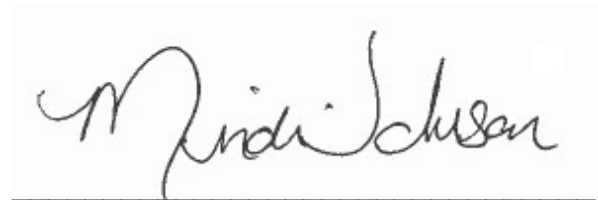
Trial Court Case No. **3AN-15-04521CI**

Appellant's brief, filed on 5/5/2020, is returned for correction, based on the following reasons specified by the law clerk who reviewed the brief and excerpt for technical compliance with Appellate Rules 210 and 212.

The original and one copy of the corrected brief, and the excerpt, with proof of service, are due on or before **5/20/2020**. **Appellant shall also email .pdf versions of the brief and excerpt to pleadings@akcourts.us.**

Entered under Appellate Rule 102(f).

Clerk of the Appellate Courts



Mindi Johnson, Deputy Clerk

Distribution:

Mail:
Solomon, Terrace L
Solomon, Wendy

Email:
Solomon, Terrace L

Appellant's opening brief is **REJECTED** because it does not comply with the requirements of Appellate Rule 212. The brief must include citations to an excerpt or the record for every factual assertion. Currently, there are no citations for the factual assertions. In addition, appellant failed to submit an excerpt of record as required by Appellate Rule 210(c).

1. Every statement of fact in the brief must be followed by a citation to the page in the record that shows the fact is true. AR 212(c)(1)(G) and (c)(8) (attached). The brief is full of factual assertions that are not supported by citations to the record. For example, nearly every sentence in the Facts and Procedural History sections are statements of fact. There is no citation to the record supporting any of these statements.

For each factual assertion, appellant may cite either to the record itself, or to his excerpt of record. The record is the actual superior court file. The pages of the record have been numbered and it is currently located in the appellate clerk's office in Anchorage. Appellant may cite to these page numbers to support his factual assertions (R. ____).

Alternatively, appellant may cite to his excerpt of record (Exc. ____). The excerpt of record is a separate document from the brief, with a separate cover. The excerpt contains copies of documents that are found in the record, that is, documents that were before the superior court. Appellant should review Appellate Rule 210(c) (attached) which states what documents are required to be contained in the excerpt. The Clerk's Instructions for Preparation of Excerpts (also attached) provide additional helpful information.

2. The brief must be signed by the Appellant.

3. On the cover page, please include the correct Supreme Court case number.

The Appellant is required to file an excerpt and must comply with Appellate Rule 210(c):

1. See attached Appellate Rule 210(c) for a list of the documents that must be included in the excerpt of record.

2. The excerpt must contain a cover page. The cover page must include: (1) the name of the appellate court and the appellate case number, (2) case title, (3) nature of the proceeding, (4) name of the court, judge, and case number in the lower court, (5) excerpt title, (6) volume number, (7) your name, address, and phone number.

3. An excerpt must contain a table of contents that lists all of the documents that you are including in the excerpt. The table of contents must contain the page number on which the first page of the document appears along with the date the document was produced.

4. The excerpt should be ordered by date, with the oldest document appearing first and the most recent document appearing last.

5. Please see the attached **CLERK'S INSTRUCTIONS FOR PREPARATION OF EXCERPTS** for helpful information about preparing your excerpt of record.

If appellant is unsure how to make the changes required in this notice, he may contact the Appellate Clerk's Office at (907)264-0612 for guidance.

Appellate Rule 210(c).
(c) Excerpts of Record.
(1) Duty to Prepare.

(A) Each party shall file and serve an excerpt of record with the party's brief.

(2) Contents.

(A) Appellant's Excerpt.

The appellant's excerpt of record must contain the following parts of the record:

- (i)** all charging documents, or the petition or complaint, counterclaim, crossclaim, and answer setting out the issues to be tried;
- (ii)** the judgment or interlocutory order from which the appeal is taken;
- (iii)** other orders or rulings sought to be reviewed;
- (iv)** supporting opinions, findings of fact, conclusions of law, or other statements showing the reasoning of the trial court and, if appellant claims that the written findings of fact or conclusions of law are insufficient or erroneous, a copy of the pages of the transcript at which any relevant oral findings of fact and conclusions of law are recorded;
- (v)** if the appeal is from the grant or denial of a motion, relevant portions of briefs, memoranda, and documents filed in support of and in opposition to the motion;
- (vi)** if the appellant is challenging the admission or exclusion of evidence, the giving or failure to give a jury instruction, or another oral ruling or order, a copy of the pages of the transcript at which the evidence, offer of proof, ruling, or order and relevant discussion by the court, and any necessary objection are recorded;
- (vii)** if the appeal is from a final decision in a child-in-need-of-aid proceeding under AS 47.10.080(c) or a case involving the termination of parental rights under AS 25.23.180, the predisposition report prepared in the case; and
- (viii)** specific portions of other documents in the record, including documentary exhibits, that are referred to in appellant's brief and essential to the resolution of an issue on appeal.

(B) Appellee's Excerpt.

The appellee's excerpt of record must contain those parts of the record required under (c)(2)(A) and relied on by appellee that were not included in the appellant's excerpt.

(C) Portions of the Transcript.

Parties may also include in the excerpt selected pages of the transcript that are critical to the appeal.

(D) Items Not to Be Included in the Excerpts.

Pages of the transcript and briefs and memoranda filed in the trial court may only be included in the excerpts if required under (c)(2)(A) or permitted under (c)(2)(C). The fact that parts of the record are not included in the excerpts does not prevent the parties or the appellate court from relying on those parts.

(3) Supplemental Excerpts.

Appellant may file and serve a supplemental excerpt of record with appellant's reply brief or within the time specified for filing a reply brief. No other supplemental excerpt may be filed except by leave of the appellate court granted on motion, or at the request of the appellate court. A supplemental excerpt may not include parts of the record that appear in another excerpt filed in the appeal.

(4) Form, Filing and Service.

Each party's excerpt of record must be arranged in chronological order, must be bound separately from the party's brief, and must contain a table of contents at the beginning of the first volume. The excerpt and the table of contents must be in the form specified in the Clerk's Instructions for Preparation of Excerpts published in these rules. One copy of the excerpt must be filed and served with the party's original brief. Eight copies of the excerpt must be filed with the bound copies of the brief, and one copy must be served on counsel for each party separately represented, unless a different number is specified by the clerk.

(5) Excerpts to be Abbreviated.

The parties shall include in the excerpts only those parts of the record that are essential to a determination of the questions presented on appeal. For any infraction of this rule, the appellate court may impose sanctions and withhold or impose costs as the circumstances of the case and discouragement of like conduct in the future may require.